

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

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|------------------------------|---|--------------------------------------|
| ERIKA EBERHARDINGER, | : | CIVIL ACTION NO. 1:16-CV-2481 |
| | : | |
| Plaintiff | : | (Chief Judge Conner) |
| | : | |
| v. | : | |
| | : | |
| CITY OF YORK, et al., | : | |
| | : | |
| Defendants | : | |

ORDER

AND NOW, this 28th day of December, 2018, upon consideration of the motion (Doc. 106) to stay the above-captioned case pending appeal filed by defendant Benjamin Smith (“Officer Smith”), wherein Officer Smith seeks a stay of all deadlines set forth in this court’s September 26, 2018 order (Doc. 91) until the Third Circuit Court of Appeals decides his appeal of this court’s September 18, 2018 interlocutory order (Doc. 88), and it appearing that Officer Smith’s appeal involves the issue of qualified immunity, (see Doc. 92 (notice of appeal)), and it further appearing that the Third Circuit has scheduled this case for mandatory mediation on January 3, 2019, (Doc. 106 ¶¶ 8-9), and the court finding that a stay is proper in light of the scheduled mediation as well as the pending decision from the Third Circuit regarding, *inter alia*, the propriety of Officer Smith’s interlocutory appeal, compare Mitchell v. Forsyth, 472 U.S. 511, 524-30 (1985) (finding jurisdictional basis for interlocutory appeal of qualified immunity determination that turned on pure question of law), and Ashcroft v. Iqbal, 556 U.S. 662, 671-74 (2009) (same), with Johnson v. Jones, 515 U.S. 304 (1995) (finding no jurisdiction for interlocutory

appeal of denial of qualified immunity based on disputed factual issues), it is hereby
ORDERED that:

1. Officer Smith's motion (Doc. 106) to stay the above-captioned case pending appeal is GRANTED, and this case is stayed until further order.
2. The pretrial and trial schedule (Doc. 91) in the above-captioned action is SUSPENDED. The pretrial conference scheduled for January 16, 2019, and jury selection and trial scheduled for February 4, 2019, are CANCELLED.
3. The parties shall provide written notice to the court regarding the outcome of January 3, 2019 mediation no later than **Friday, January 11, 2019**.

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania